

By: Hinojosa

S.B. No. 1483

A BILL TO BE ENTITLED

AN ACT

relating to the proof required to impose payment holds in certain cases of alleged fraud by Medicaid providers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 531.102(g)(2) and (3), Government Code, are amended to read as follows:

(2) As authorized under state and federal law, and except as provided by Subdivisions (8) and (9), the office shall impose without prior notice a payment hold on claims for reimbursement submitted by a provider only to compel production of records, when requested by the state's Medicaid fraud control unit, or on the determination by the office that a credible allegation of fraud exists, subject to Subsections (l) and (m), as applicable. The payment hold is a serious enforcement tool that the office imposes to mitigate ongoing financial risk to the state. A payment hold imposed under this subdivision takes effect immediately. The office must notify the provider of the payment hold in accordance with 42 C.F.R. Section 455.23(b) and, except as provided by that regulation, not later than the fifth day after the date the office imposes the payment hold. In addition to the requirements of 42 C.F.R. Section 455.23(b), the notice of payment hold provided under this subdivision must also include:

(A) the specific basis for the hold, including identification of the claims supporting the allegation at that

1 point in the investigation, a representative sample of any
2 documents that form the basis for the hold, and a detailed summary
3 of the office's evidence relating to the allegation;

4 (B) a description of administrative and judicial
5 due process rights and remedies, including the provider's option to
6 seek informal resolution, the provider's right to seek a formal
7 administrative appeal hearing, or that the provider may seek both;
8 and

9 (C) a detailed timeline for the provider to
10 pursue the rights and remedies described in Paragraph (B).

11 (3) On timely written request by a provider subject to
12 a payment hold under Subdivision (2), other than a hold requested by
13 the state's Medicaid fraud control unit, the office shall file a
14 request with the State Office of Administrative Hearings for an
15 expedited administrative hearing regarding the hold not later than
16 the third day after the date the office receives the provider's
17 request. The provider must request an expedited administrative
18 hearing under this subdivision not later than the 10th day after the
19 date the provider receives notice from the office under Subdivision
20 (2). The State Office of Administrative Hearings shall hold the
21 expedited administrative hearing not later than the 45th day after
22 the date the State Office of Administrative Hearings receives the
23 request for the hearing. In a hearing held under this subdivision:

24 (A) the provider and the office are each limited
25 to four hours of testimony, excluding time for responding to
26 questions from the administrative law judge;

27 (B) the provider and the office are each entitled

1 to two continuances under reasonable circumstances; and

2 (C) the office is required to show probable cause
3 that the credible allegation of fraud that is the basis of the
4 payment hold has an indicia of reliability and that continuing to
5 pay the provider presents [~~an ongoing significant financial risk to~~
6 ~~the state and~~] a threat to the integrity of Medicaid due to:

7 (i) an ongoing significant financial risk
8 to the state that may result in the loss of \$100,000 or more; or

9 (ii) a high probability that a serious
10 threat to the health or safety of a recipient exists or may develop
11 as a result of the provider's conduct.

12 SECTION 2. If before implementing any provision of this Act
13 a state agency determines that a waiver or authorization from a
14 federal agency is necessary for implementation of that provision,
15 the agency affected by the provision shall request the waiver or
16 authorization and may delay implementing that provision until the
17 waiver or authorization is granted.

18 SECTION 3. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2019.